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How Socio-Legal Norms Emerge within Complex Networks: Law and (In)Formality at Ipanema Beach

*Pedro R. Fortes**

ABSTRACT

This article explores the interplay of formal and informal normative arrangements and provides an ethnographical analysis of socio-legal norms at Ipanema Beach in Brazil. For Brazilian society, beaches are so important that even constitutional norms regulate their operation and guarantee free access for everyone. Likewise, Brazilians usually refer to beaches as ‘democratic spaces’ and this paper discusses the exotic association between a geographical area and governmental structure. Is equal participation and symmetrical power for all beachgoers in Brazil realistic, or is this notion of a democratic beach just a myth?

This article also focuses on the existence of an informal food market at Ipanema Beach and analyzes its regulation, informal arrangements of antitrust (anticompetitive market prices), as well as issues of environmental and consumer protection. In addition, this study assesses informal land regimes and discusses which norms are available to regulate the occupation of the space by beachgoers. In this context, tent managers and informal parking-space-finders provide informal arrangements that guarantee parking, tents, and chairs for beachgoers. The State is also present at Ipanema Beach by way of municipal guards, police officers, and lifeguards, who are expected to enforce the laws and maintain order.

However, there are many examples of resistance to legal regulations and to criminal law enforcement. For instance, marijuana smokers tend to

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frequent a particular area of the Beach and they make noise to alert others of police officers in an effort to prevent arrests. Further, *frescobol* (a local game played with rackets) players are not fined for playing the game at certain times, but at non-designated times their sanctions consist of warnings, threats to report them to authorities, and eventually the confiscation of the ball. Dogs are also prohibited, but are tolerated in an isolated corner of the Beach. In summary, a range of (in)formal normative arrangements characterize law and society at Ipanema Beach.

I. A METHODOLOGICAL EXCURSUS: THE CONFESSORIAL APPROACH,
RETROSPECTIVE PARTICIPATORY OBSERVATION, AND ANALYTICAL
NARRATIVES IN SOCIO-LEGAL RESEARCH

Before starting my analyses, I would like to state that three methodological aspects of my research should not be ignored and highlight them for discussion with all participants of this symposium. First, this is a confessional paper in the sense that it contains autobiographical information. Immediately after birth, I was taken to my parents' apartment fifty meters away from Ipanema Beach and have lived most of my life there. In contrast to my parents, who were teenagers when they moved to Rio de Janeiro, Ipanema was always a part of my life and going to the beach there was a regular form of leisure. Therefore, I am not only analyzing socio-legal norms in a limited spatial area, but also revisiting a very important part of my own existence when I discuss law and (in)formality at Ipanema Beach. Unlike Ellickson in Shasta County,¹ Goffman in Bali,² and Sousa Santos in Pasargada,³ I am dealing with a very particular universe that I experienced predominantly as a participant rather than an observer. Resultantly, I borrow from Joaquim Falcão this sense that an autobiographical project—like my work here—is confessional.⁴

Second, I would consider my work to be an ethnographic study, as I am providing a thick description of legal culture within Ipanema Beach.⁵ However, this study has one very important distinction from traditional social anthropology. According to traditional anthropological research, researchers define their main investigation, questions, and research agenda prior to their field trip and to their immersion within the investigated

1 See generally Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (1986).

2 See generally Clifford Geertz, *The Interpretation of Cultures* (Basic Books 1977).

3 Boaventura de Sousa Santos, *The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada*, 12 LAW & SOC'Y REV. 5 (1977).

4 JOAQUIM FALCÃO, ET AL., *TEORIA DO DIREITO CONSTITUCIONAL* (6th ed., FGV Direito Rio Editora, 2008).

5 Geertz, *supra* note 2.

community. In my case, the research question was offered to me by accident a couple of years ago. As a Stanford Program in International Legal Studies (“SPILS”) student in 2007, I was chatting with my professor, Lawrence Friedman, during the break in one of our Law and Society classes. Professor Friedman was contemplating a visit to Brazil and mentioned that one of his friends once went to a beach in Rio.

After enjoying a nice swim, he found out that all his belongings had been stolen. After hearing this story, I explained to Professor Friedman that locals know about these dangers, and always ask someone to look after our belongings when they go swimming. Professor Friedman commented that this informal social arrangement could be a point of departure for a study of law and society on Brazilian beaches. His insight into how many interesting and informal social norms could probably be found in such a context made me retrospectively consider my three decades of experience as a beachgoer. It also encouraged me to assess this interplay of formal legal rules and informal social norms at Ipanema Beach. Unlike Nader in Mexico,⁶ Levi-Strauss in Brazil,⁷ and Pirie in Tibet,⁸ I was not capable of pursuing prospective research, but rather retrospective observation as a participant beachgoer in the investigated universe.

Therefore, one of the interesting questions for discussion is whether retrospective participatory observation is a valid methodological tool for socio-legal research. In my opinion, it could be considered a valid tool, as long as it is used it for exploratory socio-legal research, and its limitations regarding the generalization of research findings are acknowledged. Admitting to the validity of retrospective participatory observation may enrich the methodological toolbox of socio-legal research. It would also create opportunities for researchers to provide more detailed, textured, and nuanced analyses of universes they have experienced as active participants prior to conducting their research. In any event, socio-legal research is always dependent on inter-subjective approval of a community of socio-legal scholars, and findings are always evaluated and judged by rigorous peer-review, which negotiates some of the issues associated with subjective research. Likewise, retrospective participatory observation should only be limited to research projects in which the memory of the researcher and the reconstruction of past experiences are more adequate for the analysis than

⁶ See generally LAURA NADER, *HARMONY IDEOLOGY: JUSTICE AND CONTROL IN A ZAPOTEC MOUNTAIN VILLAGE* (Stanford Univ. Press 1990).

⁷ See generally CLAUDE LEVI-STRAUSS, *TRISTES TROPICS* (John Weightman & Doreen Weightman trans., Penguin rev. ed. 1992).

⁸ See generally FERNANDA PIRIE, *PEACE AND CONFLICT IN LADAKH: THE CONSTRUCTION OF A FRAGILE WEB OF ORDER* (Brill Academic Publishers 2007).

other methodological tools and strategies.⁹

Third, and in addition to the confessional approach and retrospective participatory observation, this paper also benefits from using the analytical narrative technique, which combines the descriptive element of historical narratives with the analytical element of rational choice theory and game theory.¹⁰ Consequently, the paper is not limited to a thick description of law and society at Ipanema Beach, but also analyzes a set of incentives and disincentives that relevant legal actors have for their conduct within this socio-legal universe. As a research technique, analytical narratives have been widely used in international relations and history, and could also be explored for socio-legal studies. As this combination of a confessional approach, retrospective participatory observation, and analytical narratives seems unusual, I have provided the reader with this methodological excursus for our discussion.

II. IPANEMA BEACH AS A SOCIO-LEGAL SPACE: SOCIAL TRIBES, NETWORK MEMBERSHIP, AND CULTURAL DISTINCTIONS

Ipanema Beach is just one of forty-six beaches found in Rio de Janeiro, but is known worldwide because of the famous bossa nova song “The Girl from Ipanema.” Ipanema comprises a strip of white sands, 2.6 kilometers long, between a 130-meter canal named the “Garden of Allah” (separating Ipanema from Leblon), and a rocky formation known as “the harpooner’s rock” (separating Ipanema from Copacabana). In the indigenous language of *Tupy*, *Ypanema* means “useless water” and this may be a reference to the existence of a large lagoon one kilometer from Ipanema Beach that historically had no fish due to its pestilent waters. In 1894, the neighborhood of Ipanema was founded on this small patch of land between the lagoon and the Beach. Ipanema was far away from downtown Rio and was instead an isolated part of Rio de Janeiro with just a few houses. Since the 1970s, Ipanema has become one of the most desirable areas to live in Rio de Janeiro, and there are currently around 40,000 residents in this small neighborhood. In addition to some of the most expensive apartments in town, Ipanema also contains a *favela*, which is located on top of the mountain *Cantagalo* and contains 1,500 houses with approximately 4,700 residents. Within this microcosm inside Ipanema, formal “asphalt law” competes with the informal law of *Pasargada*, excellently explained in Sousa Santos’s seminal socio-legal article.¹¹

⁹ At the Conference on Law and (in)formality at Stanford Law School, I received from Ather Zia feedback indicating that this practice is accepted by anthropologists, and is labeled auto-anthropology.

¹⁰ ROBERT BATES, ET AL., *ANALYTICAL NARRATIVES*, (Princeton Univ. Press 1998).

¹¹ See Sousa Santos, *supra* note 3, at 6-124.

Ipanema Beach is an intriguing socio-legal space for a number of reasons. The neighborhood has been depicted in many films and soap operas and it has become an iconic beach in the imagination of Brazilians. Therefore, the Beach regularly receives many more foreign visitors than its own resident population. Tens of thousands of beachgoers are distributed across different parts of the Beach, each of whom belong to one of the many social tribes. Close to lifeguard tower Number Ten, beachgoers can predominantly be characterized as “yuppies,” young urban professionals in their twenties and thirties. In this area, there is a concentration of lawyers, economists, engineers, and business people, who gather together in front of different tents. Given that this part of the beach is popular among yuppies, it is full of people on weekends, but quite empty on weekdays.

Close to lifeguard tower Number Nine, beachgoers can be characterized as “hippies,” alternative, young, free-spirited individuals in their twenties and thirties. In this area, there is a concentration of artists, journalists, and jobless people, who also have their own favorite tents. As many of these people have flexible schedules, are jobless, or free-lance workers, this part of the Beach is almost always full. Close to lifeguard tower Number Eight, beachgoers can be characterized as LGBT, as this is how they tend to self-identify. In this area, tents usually display a rainbow flag as an invitation for lesbian, gay, bisexual, and transvestite customers. As Rio has become a very popular destination for the international LGBT community, particularly for New Year’s Eve and the notorious carnival, this part of the beach is packed every Brazilian summer.

In addition to these three lifeguard towers,¹² beachgoers also divide themselves between 150 different tents. These different tents are licensed by the city, and their owners have a formal permit to sell food and drinks, and to rent out beach chairs and sun umbrellas. Local beachgoers usually establish one of these tents as their meeting point and frequently go to the exact same tent, where they are likely to meet their beach friends. These tents function as reference points for social networks, and groups of frequent beachgoers from the same social tribes aggregate here. Relationships between beachgoers cannot be compared to a close-knit community¹³ or a close ethnic network,¹⁴ but regulars get the chance to

¹² During the symposium Manuel Gomez and Grettel Zubiaur asked me about the other lifeguard towers at Ipanema Beach. Numbers One to Six are located at Copacabana Beach and Numbers 11 and 12 are located at Leblon Beach. Lifeguard Tower Number Seven is a meeting point for beachgoers from the suburbs, because several bus stops are located very close to this part of Ipanema Beach. In a subsequent study, I should investigate the existence of informal social norms there as well.

¹³ Allan Shapiro, *Law in the Kibbutz: A Reappraisal*, 10 *LAW & SOC’Y REV.* 415, 415-38 (1976).

¹⁴ See generally Barak D. Richman, *How Community Create Economic Advantage: Jewish Diamond Merchants in New York*, 31 *J. LAW & SOCIAL ENQUIRY* 383, 383-420 (2006).

meet each other, talk to people who go to the same tent, and to interact in a complex way with other beachgoers.¹⁵ Their social interactions are analogous to a club,¹⁶ where membership is not limited to those who pay an annual fee and have membership cards. In these beach tents, individuals enter social networks by repeatedly playing the social game of visiting the same spot on the beach, interacting with local people, gaining a reputation, and getting accepted as a member of a given social tribe. In other words, there are informal processes of social interaction that result in the inclusion or exclusion of an individual within these social networks. As these beach tents are open to everyone, anyone may use them as their reference point, but outsiders,¹⁷ and one-shot players,¹⁸ will not have easy access to the social network.

As Ipanema Beach is free and open to the general public, people from all different socio-economic strata go there. Therefore, individuals from lower, middle, and upper classes share the same territorial space, as everyone is entitled to choose their spot on the white sands freely. On one hand, all Brazilian individuals have equal access to the beach and use the same geographical area. On the other hand, individuals differentiate themselves according to various cultural aspects that define their group membership and social networks. In this sense, there are all sorts of distinctions that approximate and distance individuals.¹⁹ In addition to the membership in different social tribes of yuppies, hippies, and the LGBT community, socio-economic background also contributes to inclusion or exclusion within these social networks. In particular, the poor residents of *favelas* may have less opportunity to be accepted as members of an upper-class group of friends and vice versa. Interestingly, these complex social networks are primarily centered on the three lifeguard towers and 150 beach tents, which have a symbolic impact on the different social tribes and individual interactions. As evidenced, Ipanema Beach constitutes a complex socio-legal space, in which people distribute themselves not only around beach towers and tents, but also via cultural symbols of social distinction, economic class, and tribal membership.²⁰ Locals can easily

¹⁵ See Ellickson, *supra* note 1, at 623-87.

¹⁶ See Richman, *supra* note 14, at 395-98.

¹⁷ See Ellickson, *supra* note 1, at 623-87.

¹⁸ Marc Galanter, *Why the Haves Come Out Ahead: Speculation on the Limits of Legal Change*, 9 LAW & SOC'Y REV. 1, 95-160 (1974).

¹⁹ PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGMENT OF TASTE* (Routledge 2013).

²⁰ Another fascinating example of a complex socio-legal space is found at Manuel A. Gomez's contribution to this symposium. Manuel A. Gómez, *The Tower of David: Social Order in a Vertical Community*, 10 FIU L. Rev. 215 (2014); see also Manuel A. Gómez, *Order in the Desert: Law Abiding Behavior at Burning Man*, 2013 J. DISP. RESOL. (2013); Manuel A. Gómez, *Dusty Order: Law*

identify these aspects, distinguish each other accordingly, and position themselves within their social tribes, networks, and classes. There are a few opportunities for social movement, but these are clearly limited. Transcending social boundaries is not so common.

III. LEGAL RULES ON IPANEMA BEACH: FOOD MARKETS, SPORT, AND THE PROHIBITION OF PETS

Ipanema Beach is a spatial area permeated by formal, legal rules enacted at federal, state, and municipal levels. First, the Brazilian Federal Constitution of 1988 defines all maritime beaches as property of the Union.²¹ However, the Federal Constitution is silent on the consequences or implications of this clause. One possible interpretation is that these areas may not be transferred to particular individuals, as they are public by definition. However, the Federal Constitution does not expressly prohibit private use or private possession of property within these maritime beaches. In addition, according to Brazilian administrative law, public property may be temporarily disposed of, or leased to private individuals, or to corporations.²² Likewise, some public properties require payment for their use, to finance the associated costs. On many occasions, the state will charge fees, tariffs, and tickets to cover intrinsic expenses for providing or conserving a public service. For instance, access to the Theatre of Rio de Janeiro is limited to those who purchase a ticket. Also, some ecological parks charge visitors for environmental conservation of the visited unit, and, on some federal roads, drivers must pay a toll to use this public good. According to administrative law, all federal property can be temporarily transferred or leased to private individuals or corporations;²³ nothing in the Federal Constitution prevents a ticket, fee, or toll from being charged to users of these public goods.

Interestingly, the State Constitution of Rio de Janeiro also contains rules regarding maritime beaches, even if these federal properties do not belong to the State.²⁴ The State of Rio de Janeiro included in its

Enforcement and Participant Cooperation at Burning Man, in PLAYA DUST: COLLECTED STORIES FROM BURNING MAN (Samantha Krukowski, ed., 2014).

²¹ See CONSTITUIÇÃO DA REPÚBLICA FEDERATIVA DO BRASIL DE 1988 [FEDERAL CONSTITUTION OF BRAZIL] art. 20, IV (Braz.), DIÁRIO OFICIAL DA UNIÃO [D.O.U.] de 5.10.1988. Article 20, section IV reads, “the Union has property of . . . the maritime beaches.”

²² Evandro Martins Guerra, *Bens Públicos*, 21 REVISTA DO TRIBUNAL DE CONTAS DO ESTADO DE MINAS GERAIS, N. 3 (2003), available at http://200.198.41.151:8081/tribunal_contas/2003/03/-sumario?next=2 (last visited Oct. 18, 2014).

²³ *Id.*

²⁴ CONSTITUIÇÃO DO ESTADO DE RIO DO JANEIRO DE 1989 [STATE CONSTITUTION OF RIO DE JANEIRO] art. 32, II; art. 268, II (Braz.).

constitution the fundamental right of access to beaches.²⁵ According to Article 32 of the State Constitution of Rio de Janeiro, “the state shall guarantee access to the beaches for all citizens, prohibiting within its competence any private building on the sands.”²⁶ In 2000, this fundamental right was expanded through State Law Number 3430/00, mandating that all municipalities should remove private building on the sands within the following thirty days and that parking places should be demarcated to guarantee full access to everyone.²⁷ In addition, the State Constitution of Rio de Janeiro granted special status to Rio’s beaches, by classifying them as areas of permanent environmental protection.²⁸ These areas are entitled to special environmental protection, which means that, according to Article 261, section XV of the State Constitution of Rio de Janeiro, the State should promote judicial and administrative measures to establish the liability of polluters.²⁹

In addition to these federal and state legal rules, the Rio de Janeiro municipality also established a series of laws and decrees, with a view to regulate the Beach.³⁰ Analyzing the content of these local rules, there is clear and abundant evidence as to how the protection of beaches is important for the municipality. For example, Municipal Law Number 5459/12 established the legal perpetuation of Copacabana Beach due to its environmental, cultural, and visual importance.³¹ In concrete terms, this means that any modification to the beach’s boardwalk, kiosks, benches, guardrails, and anything else must be approved by the executive powers governing the Beach.

²⁵ CONSTITUIÇÃO DO ESTADO DE RIO DO JANEIRO DE 1989 [STATE CONSTITUTION OF RIO DE JANEIRO] art. 32, II (Braz.).

²⁶ *Id.*

²⁷ Lei No. 3430, de 28 de Junho de 2000, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 29.6.2000 (Braz.).

²⁸ *See* CONSTITUIÇÃO DO ESTADO DO RIO DE JANEIRO DE 1989 [STATE CONSTITUTION OF RIO DE JANEIRO] art. 268, II (Braz.).

²⁹ *See id.* at art. 261, XV (Braz.).

³⁰ Lei No. 5,459, de 19 de Junho de 2012, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 26.12.2012 (Braz.).

³¹ *See* Lei No. 2,358, de 6 de Setembro de 1995, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 08.09.1995 (Braz.); Lei No. 2,574, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 01.10.1997 (Braz.); Lei No. 2,575, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.04.1998 (Braz.); Decreto No. 20,225/01, de 13 de Julho de 2001, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.07.2001, (Braz.); Decreto No. 27,955, de 21 de Maio de 2007, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 22.05.2007 (Braz.); Decreto No. 35,179, de 2 de Março de 2012, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 05.03.2012 (Braz.); Decreto No. 37,231, de 5 de Junho de 2013, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 6.6.2013 (Braz.); Decreto No. 37,486, de 5 de Agosto de 2013, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 6.8.2013 (Braz.); Decreto No. 38,295, de 11 de Fevereiro de 2014, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 13.02.2014 (Braz.).

In addition to this law, following UNESCO's recognition of Rio's landscape as a world cultural heritage site, Rio's Mayor edited two decrees that make this combination of mountains and beaches an area of environmental protection and (also) a park.³² At least according to the law-in-the-books, this should mean that these parts of the city are granted special protection and should be restored to their natural states. In practice, some of the areas that make up Rio's unique landscape are mountains containing *favelas* with tens of thousands of people; politicians will tend not to remove these illegal houses for the sake of beautifying the landscape. On the other hand, it would be a mistake to imagine that these decrees only have some kind of mythological meaning. They are intended to convey the message that this landscape should be protected and that the mayor will not tolerate new invasions, illegal occupation, or the growth of the existing *favelas*. Time will tell if the current mayor will actually pursue this agenda or not.

Local legislation also regulates the activity of beach vendors, kiosk owners, sport players, pet owners, and mass event organizers.³³ The former mayor edited a comprehensive decree that consolidated the existing municipal regulations regarding the Beach and its surroundings.³⁴ According to Decree Number 20,225/01, beach vendors must be annually authorized by the municipality to pursue their economic activities. Some vendors are ambulant and walk across the entire beach, while others have the authorization to set up tents in specific spots. Only a very limited range of products can be commercialized by beach vendors: beer cans; soft drinks and water; coconut water; *caipirinhas*; fruit juices; mass-produced sandwiches; biscuits; mass-produced potato chips; and mass-produced popsicles.³⁵ Ambulant vendors are also authorized to sell caps, sunscreen, and general accessories.³⁶ Local legislation strictly prohibits homemade food as well as the preparation of food on the beach, particularly with respect to grilled barbecue, grilled cheese, and pastries.³⁷ Regarding the use of tents, owners must wear a standard uniform, keep only three containers for their products (which reduces their capacity to provide cold drinks for all beachgoers on summer days), display a menu list with all prices, remove the entire structure of their tents from the sands daily, and collect all

³² See Decreto No. 37,231, de 5 de Junho de 2013, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 6.6.2013 (Braz.); Decreto No. 37,486, de 5 de Agosto de 2013, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 6.8.2013 (Braz.).

³³ Decreto No. 20,225/01, de 13 de Julho de 2001, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.07.2001, (Braz.).

³⁴ *Id.*

³⁵ *Id.* at art. 6 (Braz.).

³⁶ *Id.* at art. 6, X (Braz.).

³⁷ *Id.* at art. 6, § 2 (Braz.).

garbage within a distance of twenty-five meters of their stall.³⁸

In addition to selling products, they are also entitled to rent up to ten sun umbrellas and twenty beach chairs to beachgoers.³⁹ They may also install a small shower for free use by beachgoers. In addition to ambulant and fixed beach vendors, this decree also regulated the activity of boardwalk kiosks, which may sell hotdogs, corn, pizzas, pastries, candies, fruit, coffee, milk, and chocolate.⁴⁰ Their capacity is limited to a maximum of six tables with four chairs. This municipal legislation regulates the food market on Rio's beaches by establishing a legal framework for economic activity and the grounds for municipal inspection and control. Beach vendors and kiosk owners may be sanctioned with fines ranging from seventy-five to one-hundred-and-fifty U.S. Dollars and, in cases with repeat offenders, loss of their permits.

The same decree also authorizes the establishment of sports academies on the beach for practice of volleyball, football, footvolley, and gymnastics, in which a specific part of the beach is designated for the practice of these sports.⁴¹ According to this decree, the practice of *frescobol* close to the sea during summer was prohibited between eight o'clock in the morning and four o'clock in the afternoon.⁴² *Frescobol* is a sport in which two or three players exchange a rubber ball with special wooden rackets and their goal is to keep playing without letting the ball fall on the ground. Players are, therefore, not competing against each other, but rather cooperating with each other. Created in Rio de Janeiro in 1945, *frescobol* became a very popular sport. However, as beachgoers were constantly hit by rubber balls on their way to the sea during crowded summer months, the municipality restricted its practice to early mornings, late afternoons, or close to the boardwalk. A more recent decree altered these prohibitive rules to the restriction of *frescobol* between eight o'clock in the morning and two in the afternoon from November until April.⁴³ Finally, another important legal restriction is related to pets. Since 1995 it has been compulsory for all dogs on the boardwalk to be identifiable and chained up.⁴⁴ No pets are allowed

³⁸ *Id.* at art. 7 (Braz.).

³⁹ *Id.* at art. 7, § 4 (Braz.).

⁴⁰ *Id.* at art. 18 (Braz.).

⁴¹ *Id.* at art. 32 (Braz.).

⁴² *Id.* at art. 23 (Braz.).

⁴³ Decreto No. 27,955, de 21 de Maio de 2007, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 22.05.2007 (Braz.).

⁴⁴ Lei No. 2,358, de 6 de Setembro de 1995, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 08.09.1995 (Braz.); Lei No. 2,574, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 01.10.1997 (Braz.); Lei No. 2,575, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.04.1998 (Braz.).

on sandy parts of the Beach.⁴⁵

IV. (IN)FORMAL LEGAL ENFORCEMENT AND ITS MULTIPLE ACTORS:
NEUTRALIZATION, DECENTRALIZATION, FRAGMENTATION,
SEGMENTATION, AND COOPERATION

Formal rules are generally considered to be only one aspect of the complex scenario of legal regulation on Ipanema Beach. Law enforcement also depends on informal social norms that are not expressly law in the books, but which are developed socially through the operation of law in action.⁴⁶ Some authors suggest that informal social norms constitute their own particular normative universe.⁴⁷ For instance, Sousa Santos conceives the law of Pasargada as a relatively autonomous set of social norms that are generated in stark contrast to the formal legal rules enacted by the Brazilian state.⁴⁸ Likewise, Sally Moore refers to social norms that regulate the garment industry in New York as a semi-autonomous field.⁴⁹ Other authors consider there to be a dynamic interplay between formal legal rules and informal social norms.⁵⁰ Gunther Teubner refers to the Janus face of legal pluralism and highlights the complex dualism between legal rules and social norms, law and society, formal and informal, rule-oriented and spontaneous behavior.⁵¹

Likewise, Benton criticizes the structuralist separateness between formal and informal sectors in economic discourse and the dichotomy between lawful and unlawful activities in legal discourse.⁵² Introducing the idea of rule shopping, Benton invites us to consider the complexity of legal phenomena and how extra-legal maneuvers may sometimes be necessary to assure the legality of certain activities.⁵³ Benton also criticizes the multi-layered vision of formality and informality, as there should be no hierarchical relationship between formal legal rules and informal social

⁴⁵ *Id.*

⁴⁶ See generally STEWART MACAULAY, LAWRENCE FRIEDMAN, & ELISABETH MERTZ, *LAW IN ACTION: A SOCIO-LEGAL READER* (New York: Foundation Press 2007).

⁴⁷ See Sousa Santos, *supra* note 3, at 5-126; see also Sally Falk Moore, *Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study*, 7 *LAW & SOC'Y REV.* 719 (1973).

⁴⁸ See Sousa Santos, *supra* note 3, at 5-126.

⁴⁹ Falk Moore, *supra* note 47.

⁵⁰ Gunther Teubner, *The Two Faces of Janus: Rethinking Legal Pluralism*, 13 *CARDOZO L. REV.* 1443, 1443-62 (1992); Lauren A. Benton, *Beyond Legal Pluralism: Towards a New Approach To Law in the Informal Sector*, 3 *SOCIO-LEGAL STUDIES* 223-42 (1994).

⁵¹ See Teubner, *supra* note 50.

⁵² See Benton, *supra* note 50.

⁵³ See generally *id.*

norms.⁵⁴ In addition to this idea of a heterarchical relationship between state and society, her work indicates that formality and informality are intertwined on the same plane and that non-legal social arrangements are essential for the regulation of economic activity.⁵⁵ Furthermore, she explains, informal sectors are also strongly influenced by formal legal rules.⁵⁶

Particularly in the case of Ipanema Beach, regulation may be considered complex due to the multiplicity of legal actors involved in inspection, control, and law enforcement.⁵⁷ As maritime beaches are property of the union, federal authorities are entitled to deliberate over their use, designate areas, and eventually lease them out.⁵⁸ Particularly important is the role of the Brazilian Navy, which should monitor the national coast and manage land use of the coastal area, including maritime beaches and islands. As the coast constitutes a large part of the country's population over an area of approximately 7,408 kilometers, the Brazilian Navy does not have sufficient personnel or financial resources to exercise effective control over this expansive coastal area. Therefore, even though the Brazilian federal system concentrates responsibilities for coastal management on the Federal Government, the Union welcomes cooperative support from the state and municipal governments for management and protection of these coastal areas. As a result, states and municipalities exercise competences that are not strictly theirs according to the Federal Constitution.⁵⁹ This results in a complex web of federal, state, and municipal legal rules and enforcement actions over the Brazilian coast.

There are a number of different enforcement agents at Ipanema Beach. For instance, there are four lifeguard towers, in which state officials from the fire brigade control areas of 800 meters, monitoring swimmers, surfers, and beachgoers in general. Their official mandate implies rescuing people at sea. Because they are well-respected by the population and have permanent stations, these lifeguards are subject to certain extra-legal demands. Likewise, military police officers patrol the white sands and the boardwalk of Ipanema Beach; their professional mission is supposedly limited to crime prevention and the prosecution of criminals. However, as public officials in the area, the population requests that they solve conflicts

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ In addition to Laura Benton, the critique of multi-layered normativity is also found at Eric Feldman's contribution to this symposium regarding the complex regulation of electronic cigarettes. Eric A. Feldman, *Layers of Law: The Case of E-Cigarettes*, 10 FIU L. REV. 111 (2014).

⁵⁸ See Martins Guerra, *supra* note 22.

⁵⁹ CONSTITUIÇÃO DO ESTADO DE RIO DO JANEIRO DE 1989 [STATE CONSTITUTION OF RIO DE JANEIRO] arts. 32 261; 266; 268 (Braz.).

that are not related to criminal offenses. In addition to firemen and policemen, municipal guards are also expected to patrol and conduct inspections on the vendors at Ipanema Beach, but the municipality employs a limited number of these public officials across all of Rio de Janeiro's forty-six beaches. This scenario of limited enforcement capacity is not far from the one revealed by research conducted on lobster poaching inspectors in Canada⁶⁰ and cattle trespassing control in Shasta County, California.⁶¹ Therefore, control of deviants depends primarily on self-help, secondarily on reports to authorities and, only as a last resource, to formal law enforcement through the application of fines.⁶²

The prohibition of animals on the Beach and the restriction of *frescobol* by the shore provides prodigious examples of the informal practices of law enforcement. As these legal rules are imposed by municipal decree, enforcement agents should, strictly speaking, be municipal guards. However, in the absence of these agents (who are incapable of monitoring hundreds of thousands of beachgoers over sixty kilometers of beaches in Rio de Janeiro), individuals take the initiative of directly complaining to those who take their dogs to the white sands or play *frescobol* by the water. If complaints are not sufficient in deterring these deviants, threatening to report to the authorities may suffice to interrupt the illegal conduct. If individuals insist on playing *frescobol*, beachgoers may request the presence of a public official (not even necessarily a municipal guard, but lifeguards or military police officers instead) and the rackets and balls will be confiscated or the deviants will be requested to leave Ipanema Beach. Fines are not applied for this illegal conduct.

Interestingly, the legal rules invite their own neutralization as a mechanism of command and control, and they were enacted with an innovative framework that actually induces this cooperative model of regulation.⁶³ For instance, the municipal decrees that prohibited pets and required identification and chains for dogs on the boardwalk expressly indicate that individuals are expected to complain and ultimately to report the presence of animals on the beach to municipal guards.⁶⁴ These local legal rules also clarify that police officers, firemen or any other public official will enforce the law, if municipal guards are not found. In addition,

⁶⁰ John McMullan & David Perrier, *Lobster Poaching and the Ironies of Law Enforcement*, 36 LAW & SOC'Y REV. 679, 679-718 (2002) [hereinafter McMullan & Perrier].

⁶¹ *Id.* at 679-718.

⁶² Ellickson, *supra* note 1, at 625 n.3.

⁶³ McMullan & Perrier, *supra* note 60, at 679-718.

⁶⁴ Lei No. 2,358, de 6 de Setembro de 1995, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 08.09.1995; Lei No. 2,574, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 01.10.1997; Lei No. 2,575, de 30 de Setembro de 1997, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.04.1998 (Braz.).

these municipal decrees specifically mention that educational campaigns will be conducted annually to persuade the population of health and safety issues that justify the prohibition of animals on the beach.⁶⁵ Finally, these legal rules do not indicate any specific formal sanction for deviation.⁶⁶ Therefore, municipal guards are not authorized to fine individuals who repeatedly bring their dogs to the white sands. In exceptional circumstances, however, municipal guards may fine dog owners who fail to collect animal feces but under another local legal rule that imposes this duty on pet owners in general.⁶⁷

The regulatory strategy of the municipality employs informal lines of action, communication, influence, and control that both enable and routinize illegal practices.⁶⁸ As repeat players, dog owners learn through experience that they will not suffer formal sanctions and they test different places, times, and authorities to learn how to take their dogs to the white sands of the beach without being sanctioned. In this case, strict compliance is not necessary: walking dogs early in the morning or late in the evening averts this cooperative model of regulation between beachgoers and the authorities. Likewise, there is a small beach called *Praia do Diabo* (“Devil’s Beach”), which is known for its extremely dangerous currents. This small beach is located at the far north end of Ipanema and has oft been considered a safe haven for walking dogs because it mainly attracts surfers who are not bothered by the presence of animals on the sand. In this case, as informal social norms authorize the presence of dogs in specific times and places, formal law is translated informally into the very same practices that it seeks to control.⁶⁹ On one hand, the legal rule contains a broad prohibition of animals on beaches.⁷⁰ On the other hand, dog owners empirically test this prohibition, seeking social norms that allow what the formal rules seem to prohibit under particular circumstances. In this sense, beachgoers are shopping for norms in places like Devil’s Beach.⁷¹

Legal rules should no longer claim normative centrality or monopoly because legal pluralism has eroded positivistic claims to formal legality as the single normative authority in society.⁷² Consequently, informal social

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ McMullan & Perrier, *supra* note 60, at 679-718.

⁶⁹ *See id.*

⁷⁰ Lei No. 2,358, de 6 de Setembro de 1995, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 08.09.1995 (Braz.).

⁷¹ These examples are analogous to cases of accepted deviance presented by Mark Edwards in his contribution to this symposium. Mark Edwards, *Layers of Law and Social Ordering: Of Mirrors, Bulwarks, and Safety Valves*, 10 FIU L. Rev. 19 (2014).

⁷² John Griffiths, *What is Legal Pluralism?* 24 J. LEGAL PLURALISM & UNOFFICIAL L. 1 (1986).

practices are considered essential for effective law enforcement and societal regulation. Decentering regulation removes the state from the apex of social control, shifts the relationship between state and society from a hierarchical to a heterarchical position, and brings complexity into the regulatory space.⁷³ In practical terms, knowledge and power are fragmented and reconstructed as a result of the dynamic interaction between social and governmental actors.⁷⁴ Decentering regulation also collapses the distinction between private and public, viewing hybrid organizations or networks as regulators and taking self-regulation seriously. It addresses internal regulation through design and implementation of regulation inside an organization (internalization of rules of conduct by its own members without external control). It also focuses on external regulation through practices like contracting (in which the organization and external parties negotiate contractual terms and become responsible for creating, monitoring, and enforcing norms).⁷⁵ Black finds that the attractiveness of self-regulatory regimes lies in the fact that regulators are also regulated by culture, are accountable and more democratic, and the distinction between principal and agent may collapse.⁷⁶

Particularly on Ipanema Beach, informal networks function as co-regulators of socio-legal space. Groups of regular beachgoers develop their own informal social norms according to their social tribes. For instance, close to lifeguard tower Number Eight, same-sex couples are free to display their affection publicly, and kisses between lesbian and gay couples have been common in this part of Ipanema Beach for decades. In this small safe haven for the LGBT community, homophobia is strictly prohibited and all beach vendors exhibit rainbow flags that symbolize gay pride. Close to lifeguard tower Number Nine, marijuana is freely smoked and any attempt to repress consumption in this area is faced with stark resistance by the social network of hippies who inhabit this space. On this part of the Beach, flags adorned with marijuana leaves and Bob Marley are common.

In contrast, close to lifeguard tower Number Ten, social norms are embedded in a more elitist normative ethos. This social tribe established itself very close to the upper class “Rio de Janeiro Country Club” and the exclusive residential building *Cap Ferrat*, which is indicative of their more mainstream perspectives. On this part of the beach, drug consumption and

⁷³ Julia Black, *Decentering Regulation: Understanding the Role of Regulation and Self-Regulation in a Post-Regulatory World* (issue 1), 54 CURRENT LEGAL PROBS. 103 (2001).

⁷⁴ *Id.*; MICHEL FOUCAULT, SECURITY, TERRITORY, POPULATION: LECTURES AT THE COLLEGE DE FRANCE 103-46 (Michel Senellart et al. eds., Graham Burchell trans., Palgrave Macmillan 2009) (1977-78).

⁷⁵ Black, *supra* note 73.

⁷⁶ *Id.*

same-sex love are uncommon practices and would be socially taboo. Likewise, law enforcement agents would not be criticized for arresting someone for smoking marijuana in this area. In other words, a complex array of social norms is generated according to the shared values of these social networks and these regulate behavior in different spaces of Ipanema Beach.

In addition to these social tribes, the role of the fixed tent vendors is also relevant. These individuals manage the space around their tents and play an important part in the experience of regular beachgoers. They are expected to provide cold drinks, chairs, and umbrellas for everyone. They are also responsible for the cleanliness of their share of the beach. Furthermore, they have to respect consumer protection legislation by displaying a price list, controlling people's individual consumption, and charging prices correctly.⁷⁷ As small business units, these tents are not subject to any formal regulatory agency and are simply inspected by municipal agents who check their compliance with Decree Number 20,225/01. They are largely self-regulated or co-regulated by social networks. For instance, especially during summertime, beachgoers press beach vendors for chairs and sun umbrellas and they rent many more of these than the ten umbrellas and twenty chairs permitted by legislation. Beach vendors in Ipanema rent more than the legal limit, due to such a strong business demand, and they make enough money on any summer day to cover a fine of seventy-five U.S. Dollars. What's more, inspections are also often made during peak periods, when chairs and umbrellas are distributed to customers on the Beach and municipal guards do not walk around to count how many umbrellas and chairs bare each vendor's logo.

Regarding cleanliness, beach vendors are always equipped with a few large plastic bags to collect garbage, but these are not sufficient for all of the garbage in the area. Therefore, garbage collection on the sands is a task performed by multiple actors. Ipanema Beach has a number of "can collectors," as picking up beer and soft drink cans and selling them as scrap for aluminum recycling (fifty cans for one U.S. Dollar) has become an informal profession in Brazil. Beachgoers dispose them on nearby sands (but never close to their own personal belongings) and a can collector will come and pick them up. Many individuals also take care of their own waste and dispose of it in garbage cans when they leave the Beach. Tent vendors also collect a part of this waste, but several garbage collectors work daily to clean the white sands of Ipanema Beach for the following day.

In addition to informal practices of environmental protection, there are

⁷⁷ Decreto No. 20,225/01, de 13 de Julho de 2001, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.07.2001, art. 7, VI (Braz.).

also social norms regarding consumer protection. Tent vendors are expected to control food consumption and to charge these expenses when a client leaves the Beach. However, and particularly during summertime, trusted regulars may be responsible for the control of their own expenses, as tent vendors may want to focus on controlling the expenses of non-regulars. These outsiders should also be aware to ask for prices, especially if they are foreign tourists. Many beach vendors do not display a list of prices in their tents (contrary to regulations), and, as they are aware that European and American currencies are highly valued, they may charge more to these outsiders than they would charge locals. For these outsiders, asking for the price is important, and consumer protection becomes a matter of self-help. On a few occasions, private networks may force price reductions. For example, if a tourist takes some food, opens the package, and only then asks for the price, an ambulant vendor may say that this product costs two or three times the normal price; local beachgoers may protest, tell the tourist not to pay, and say that they will call the police. In this case, the ambulant vendor is likely to charge the normal price.

There are also informal dynamics of antitrust law in play at Ipanema Beach. Beach vendors usually exchange information, and all ambulant and fixed vendors raise their prices together through consensus. There is thus little competition, and all products are sold at exactly the same prices across the sands. Beachgoers may resist these anti-competitive measures by refusing to buy the vendors' products and by bringing their own food and drinks to the Beach. As Ipanema Beach is divided between various social tribes and multiple networks, typical problems associated with collective action (i.e., a lack of coordination and communication among beachgoers) usually prevent these informal antitrust measures. However, at least once, the collective reaction of consumers was felt by the vendors who reduced their prices to a former figure in response.⁷⁸ These informal antitrust measures also have limited success because bringing food to the Beach is not fashionable. One of the many cultural distinctions informally established at Ipanema Beach between the 'haves' and the 'have-nots' is that one group of beachgoers will consume products from the beach vendors, whereas another group will bring their own food to the Beach. One of the pejorative terms to refer to 'have-nots' is *farofeiro*, which means that a person brings a yucca dish to eat at the beach. Therefore, the 'haves' are always reluctant to bring their own food to the beach, even when prices become unfair.⁷⁹

⁷⁸ See Gabriel Saboia, *Para Fugir dos Precos Elevandos, Carioca Reedita 'Farofa' na Areia*, O DIA RIO, (Jan. 20, 2014), available at <http://odia.ig.com.br/noticia/rio-de-janeiro/2014-01-20/para-fugir-dos-precos-elevandos-carioca-reedita-farofa-na-areia.html>.

⁷⁹ As demonstrated by Eden Sarid in his contribution to this symposium, Eden Sarid, *Don't Be a*

In fact, consumer demand has created incentives for segmentation and the establishment of an informal market of ambulant vendors who sell unauthorized food on the Beach. According to the municipal decree, ambulant vendors may only sell mass-produced sandwiches, potato chips, biscuits, and popsicles.⁸⁰ However, as there was a strong demand for a variety of different products, ambulant vendors started to sell Middle Eastern food, Japanese food, salty pastries, seafood, hot dogs, grilled cheese, and homemade sandwiches and cakes. Apparently, the initial rationale for food restriction was the prevention of food poisoning and intoxication.⁸¹ Poor conservation and a lack of hygiene concerns local authorities; such lax practices may affect the health of beachgoers (who may eat a toxic shrimp or a contaminated homemade egg salad sandwich). Nonetheless, consumers seem to ignore these alleged risks and continue to purchase these unauthorized products; the increasing demand creates great incentives for additional entries into the food market on Ipanema Beach.

Unlike playing *frescobol* by the sea and pet owners walking their dogs on the sand, the variety of food offered by vendors does not bother beachgoers: no one complains about it or threatens to notify the authorities of illegal sushi or unauthorized kibbeh on Ipanema Beach. Additionally, Brazilian newspapers widely publicized the prohibition of dogs and the restriction of *frescobol*, but have never reported that only a limited assortment of food could be sold at the beaches. On the contrary, the local media has often praised the growing variety of exquisite food available on Ipanema Beach.⁸² These unauthorized food suppliers tend to work as ambulant vendors, who may escape inspection as deftly as a Mexican bullfighter dodges the horns of his opponent.⁸³ Even if municipal guards fine the vendors, their profits from food sales easily offset the customary seventy-five dollar penalty. Moreover, informal social norms at Ipanema accommodate those in the food market, and the existence of sophisticated

Drag, Just Be a Queen—How Drag Queens Protect their Intellectual Property without Law, 10 FIU L. REV. 133 (2014), reputation is extremely valuable for social actors—and not only to drag queens. It also impacts behavior of beachgoers on Ipanema Beach

⁸⁰ Decreto No. 20,225/01, de 13 de Julho de 2001, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 16.07.2001, art. 6 (Braz.).

⁸¹ See Bom Dia Rio, *Operação Verão da Vigilância Sanitária Começa Nesta Sexta nas Praias do Rio*, GLOBOTV, (Dec. 6, 2013), <http://globotv.globo.com/rede-globo/bom-dia-rio/v/operacao-verao-da-vigilancia-sanitaria-comeca-nesta-sexta-6-nas-praias-do-rio/3001227/>.

⁸² Louise Peres, *Muito Além do Biscoito Globo*, VEJARIO, (May 13, 2014 3:04 PM), <http://vejario.abril.com.br/materia/cidade/praias-rio-comida/>; Stuart Grudgings, *Plano de Ordem Entra em Choque Com 'Cultura de Praia' no Rio*, REUTERS, (Dec. 17, 2009, 3:40 PM) <http://www.estadao.com.br/noticias/geral,plano-de-ordem-entra-em-choque-com-cultura-de-praia-no-rio,483739>.

⁸³ RODRIGO MENESES, MAPPING A LEGAL CULTURE FROM THE SIDEWALK: LAW AND STREET VENDORS IN MEXICO CITY (2011).

unauthorized food suppliers contradicts the intuitive impression that wealthy consumers will reject these products. At least in Ipanema, informal and formal market players operate together and serve consumers from all different social tribes. However, as local legislation prohibits the sale of certain products, tent vendors comply with legal rules and do not risk losing their work permits to attend to market demand for a broader choice of food items.

Informal social norms are disseminated through internalization within the different tribes and networks.⁸⁴ Individuals learn and internalize particular social norms as a result of shame and peer pressure against deviant behavior.⁸⁵ As a central reference point for social networks of regular beachgoers, tent vendors may also mediate social relationships in this area. Though tent vendors should not be perceived as formal lawyers with expertise in alternative dispute resolution, they may function as informal mediators on occasion, first talking to the individuals in a personal conflict, then calling for a peaceful solution to the problem. This role may also be performed by police officers, lifeguards, municipal guards, and even other beachgoers. Discussions between partners, friends, and strangers on the Beach will rarely result in a formal judicial complaint. In fact, disputes, conflicts, and controversies are rare and, when they do occur, are almost always solved on the Beach. Only rarely are parties taken to a police station, as the majority of interpersonal disputes can be solved informally at the Beach. In the absence of a cheap and easily accessible formal juridical organ,⁸⁶ disputes are informally solved by various fragmented and informal entities that exercise the role of juridical organs on Ipanema Beach.⁸⁷ Particular disputes may also be solved through persuasion (acceptance due to identification with authority figures, enthusiasm generated by a group, or relation to values held in high regard).⁸⁸

On Ipanema Beach, conflicts are not solved under “the shadow of the law,”⁸⁹ as formal law is almost never enforced to solve disputes between

⁸⁴ See generally Amitai Etzioni, *Social Norms: Internalization, Persuasion, and History*, 34 LAW & SOC'Y REV. 157 (2000).

⁸⁵ *Id.*

⁸⁶ A prodigious example of a fast and inexpensive formal juridical organ is Tokyo's Tuna Court brilliantly described by Eric Feldman, *The Tuna Court: Law and Norms in the World's Premier Fish Market*, 94 CALIF. L. REV. 313, 332-44 (2006).

⁸⁷ In contrast to a formal juridical organ like Tokyo's Tuna Court, the literature offers interesting examples as well as fragmented and informal entities of dispute resolution, for instance, self-help by ranchers in Shasta County. See Elickson *supra* note 1, at 676-85. For more on Resident's Associations at Brazilian *favelas*, see Sousa Santos, *supra* note 3, at 38-89.

⁸⁸ *Id.*

⁸⁹ In this sense, Ipanema Beach resembles Shasta County, where formal law does not strongly influence informal dispute resolution mechanisms. See Elickson, *supra* note 1, at 623 n.3; see also *id.* at 667-71.

beachgoers. Conflicts are normally solved under the shadow of a sun umbrella or a beach tent, since other beachgoers, or a vendor, may function as persuader or mediator. Likewise, even public authorities try to solve conflicts through informal conversation before proceeding to the police station, producing the official paperwork, and eventually arresting an offender. Only for more serious criminal offences (e.g., robbery, theft, or assault) would the police abandon their patrolling duties on the sands, while minor offences (e.g., verbal assault, disorderly conduct, or harassment) would not be registered. The police take notice of minor offenses, but these offenders are not officially charged. As the police have to optimize limited resources and control large crowds, the criminal code during summer days is, in practice, reduced to the more serious crimes and petit crimes are not regularly repressed. Ultimately, none of the Beach's legal actors are keen on leaving Ipanema Beach before due time. This may be the worst sanction for everyone: trade a day on the Beach for a day of bureaucratic procedures at a police station. This reflects the general consensus that formal law should only be applied as a last resort. As suggested by Sousa Santos, law resembles a chameleon.⁹⁰ Sometimes, formal legal rules are enforced as such, but sometimes their colors change and informal social norms metamorphose the law into a new form.⁹¹

Mapping the law in action at Ipanema, we observe the differences of scale, projection, and symbolization explained in Sousa Santos' legal cartography.⁹² Regarding scale, the Union owns all beaches, but may not operate at the local level, where we find large-scale law. The state and the municipality operate at the local level, but without investing sufficient institutional and symbolic resources. Therefore, informal social norms develop through social tribes. Further, social networks interact with the formal legal rules in play at the Beach, and this socio-legal space is shaped by values held by the middle and upper classes. In terms of symbolization, the idea that Brazilian beaches are democratic spaces is mythical, as there is not equal participation and symmetrical power for all beachgoers at Ipanema Beach. All beachgoers are distinguished by particular cultural traits, socio-economic backgrounds, and membership to tribes and networks.⁹³

In this sense, the stark differentiation between asphalt and the *favelas*

⁹⁰ Boaventura de Sousa Santos, *Law: A Map of Misreading Toward a Postmodern Conception of Law*, 14 J.L. & SOC'Y 279, 299 n.3 (1987) [hereinafter Sousa Santos, *Map of Misreading*].

⁹¹ *Id.*

⁹² *Id.*

⁹³ See generally PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGEMENT OF TASTE* (Routledge Classics 2013) (1984).

that socially divides Rio de Janeiro is also present at the Beach.⁹⁴ Social hierarchies are reproduced, and social interaction between the ‘haves’ and ‘have-nots’ is low. Ipanema Beach is neither horizontal nor heterarchical.⁹⁵ Beachgoers share the same geographical area, but their Beach experience is socially different. This relates to an obvious concern regarding the protection of private property on the sands. Because there are not enough law enforcement agents, individuals cooperate within their social networks to secure their private property. For instance, whenever a group of friends go to the sea, they ask their neighbors to watch their belongings to prevent theft. Tourists are outsiders; therefore they are usually unaware of these informal social arrangements and may also be unaware of the socio-economic division between “haves” and “have-nots” at Ipanema, making their property more vulnerable.

V. LAND OCCUPATION AND LEGAL CULTURE: INACCESSIBLE BEACHES, PRIVATE GAIN, AND CONQUERING SPACE THROUGH RITUAL

Law usually regulates land occupation, classifies private and public property, defines different modes of land acquisition, and disciplines quasi-property regimes, such as possession and collateral rights that are not equivalent to property. In the case of Ipanema Beach, the Federal Constitution simply defines beaches as property of the Union,⁹⁶ and the State Constitution of Rio de Janeiro guarantees the fundamental right of access to beaches as well as the removal of private edifications from the sands;⁹⁷ formal legal rules neither discipline land occupation nor establish how citizens should enjoy their fundamental right of access to the beaches; rather, informal social norms define how land is occupied at Ipanema Beach.

Surprisingly, and in contrast to the Brazilian idea that beaches are democratic spaces, there are two small beaches between Ipanema and Copacabana that are closed to the public. Even though the State Constitution of Rio de Janeiro guarantees access to beaches,⁹⁸ these two particular beaches are inaccessible. Since they are located within a military fortress, beachgoers are not allowed to enter the area. These two small beaches are right next to the Devil’s Beach, and soldiers remain vigilant in order to prevent surfers, and beachgoers in general, from reaching these

⁹⁴ Sousa Santos, *supra* note 3, at 126.

⁹⁵ LAURENCE FRIEDMAN, *THE HORIZONTAL SOCIETY* 1-15 (1999).

⁹⁶ *See* CONSTITUIÇÃO DA REPÚBLICA FEDERATIVA DO BRASIL DE 1988 [FEDERAL CONSTITUTION OF BRAZIL] art. 20, IV (Braz.), DIÁRIO OFICIAL DA UNIÃO [D.O.U.] de 5.10.1988.

⁹⁷ CONSTITUIÇÃO DO ESTADO DE RIO DO JANEIRO DE 1989 [STATE CONSTITUTION OF RIO DE JANEIRO] art. 32, II (Braz.).

⁹⁸ *Id.*

prohibited sands. Interestingly, these two beaches are occasionally rented out by the fortress administration for private events, such as weddings and parties. In fact, in 2013, the Aquello Beach Club, which is presented as a case study below in section VII, used them to host an event. Moreover, family members of the military have access to the area and may reserve these beaches for barbecues or other social gatherings. Therefore, there is a clear gap between the law in the books and the law in action, as access to these in-fortress beaches is very limited.

On the other hand, public spaces are explored in economic terms with a view for financial return to very few. First, parking close to Ipanema Beach is very limited, and some individuals have decided to exploit this scarce resource. These individuals locate themselves close to public parking places, orient drivers toward empty ones, and guide the car so it is accommodated in a parking bay. However, they expect to be paid for this work and for taking care of the automobile. In contrast to most European and American cities in which drivers find empty places and pay for this service through a parking meter, taking care of cars in the street has become an informal profession in many parts of Brazil. In some circumstances, drivers are indirectly threatened when they refuse to pay these car watchers and warned that Ipanema is a dangerous neighborhood in which the vehicle is vulnerable to theft or vandalism without proper vigilance. Drivers, therefore, tend to give in money to these informal car watchers in order to avoid being victimized.

Second, tent vendors also exploit the Beach, as they are licensed to rent chairs and sun umbrellas. In this way, they organize land use around their tents by diffusing beachgoers in the areas where they locate their chairs and umbrellas. As they do not have exclusive rights over the area, anyone may bring his or her own chairs and umbrellas. Land use, by beachgoers, is defined by prior self-establishment, and newcomers will respect those who have already established themselves in a given area. Rules of etiquette suggest that some space should be left for the free movement of beachgoers, especially in areas with access to the sea and tents. During summer however, different groups of people are usually situated very close to each other and walking around the beach becomes more difficult.

Sport schools also have an area reserved for the practice of volleyball, soccer, or footvolley. Likewise, companies may temporarily rent beach areas and designate them for specific activities. For instance, the Bank of Brazil regularly sponsors beach volleyball or soccer tournaments, during which large areas on the sands are closed off for purposes of creating of a provisory arena. Likewise, there are sometimes concerts or religious ceremonies on the Beach, during which certain areas are reserved for music

producers or churches. Furthermore, areas may be temporarily closed for private parties (particularly on summer evenings, New Year's Eve being a favorite). In any event, simply saying that the Beach is a public area obscures the fact that it is privately used and exploited by different economic agents.

One interesting fact regarding the occupation of space on Rio de Janeiro's beaches relates to the use of the beach wrap, popularly known as *canga*. In addition to being used as a cover up for women on their way to the Beach, the beach wrap is also used to define land use. As this artifact is essentially feminine, there are subtle games between men and women regarding being welcome on someone's beach wrap. As this wrap demarcates a woman's intimate territory, access is limited to friends and significant others, like boyfriends or girlfriends, life partners or sex buddies, and also those finding their way into the particular universe of personal affection. A single man could, in theory, buy his own beach wrap, take it to the Beach, and lay down on it, but he would be perceived as an outsider, or as eccentric. Tourists are often seen lying on hotel towels, which clearly indicates their outsider status. Local men often sit on beach chairs and negotiate access to the beach wraps of the women whom they are interested in becoming more intimate with. Though these beach wraps are not Aladdin's flying carpet, they involve personal rituals to conquer space, recognition of personal affection, and have their own anthropological magic. In other words, they represent more than just a piece of cloth on the white sands of Ipanema Beach and have a symbolic value that may not easily be observed without an anthropological perspective.

VI. LAW AND ORDER AND RESISTANCE: THE WAR ON DRUGS AND BROKEN WINDOWS

Most of the analytical narratives above refer to the socio-legal norms on Ipanema Beach that ran until approximately 2008. In 2009, a newly elected mayor promised to establish public order in the entire city. As part of his political agenda, a Secretariat for Public Order was established, whose mission involves the effective enforcement of legal rules and the elimination of informal social norms.⁹⁹ For instance, informal car watchers were substituted with formal licensed workers, who now charge a fixed price and are more respectful to drivers. Tent vendors are now inspected by municipal guards more frequently and are more careful to comply with legal rules. Before these inspections, many tent vendors would not wear their official uniform to work. As this is now a legal requirement, tent

⁹⁹ Globo Online, *Paes Promete Criar a Secretaria de Ordem Pública*, OGLOBO, (Sept. 16, 2008), <http://oglobo.globo.com/brasil/eleicoes-2008/paes-promete-criar-secretaria-de-ordem-publica-5002318>.

vendors usually wear their uniforms to work. Likewise, establishing public order involved enforcing local laws that prohibit a wide variety of food choices for beachgoers. Since 2009, sushi, seafood, and grilled cheese appear less frequently on Ipanema Beach. Furthermore, the presence of animals has been strictly prohibited. Municipal guards enforce the prohibitive law even at the Devil's Beach, where beachgoers tolerate dogs walking on the sand. Until 2008, there were some twenty municipal guards responsible for inspections in Rio de Janeiro. Since 2009, at least 200 public officials have been mobilized to support the operations of the Secretariat of Public Order on the beaches during summer.

All these measures that strictly enforce legal rules were received with skepticism from the media and were met with resistance from disciplined individuals.¹⁰⁰ For instance, informal car watchers still try to work on streets that are not covered by formal workers. Tent vendors insist on renting more umbrellas and chairs than allowed by their permits. Unauthorized ambulant vendors still commercialize prohibited food, even though the risks of being caught and eventually sanctioned are higher. Newspapers finally publicized the governmental decision that only mass-produced food should be consumed on the beaches and suggested that even coconut water could be banned by the municipal administration. As a consequence of these public critiques, the mayor announced that there were no plans to ban coconuts from Rio's beaches and also established a decree in which ambulant vendors of iced tea, lemonade, and starchy biscuits were considered to be part of the cultural heritage of Rio de Janeiro.¹⁰¹ Furthermore, a recent law has determined that the city must annually produce educational campaigns regarding prohibited food on the beach, and kiosks and tents should also display this information to consumers. Dog owners organized an invasion of Devil's Beach on September 11, 2011, and simultaneously took dozens of pets on the sands to protest against strict enforcement of legislation by the secretary of public order. All these episodes are interesting examples of resistance to law enforcement through informal social practices.

The most prodigious example of resistance to the application of legal rules on the Beach was observed at the hippie's social tribe, close to lifeguard tower Number Nine. In 1995, the State Secretary of Public Safety began to arrest marijuana smokers on the Beach; he wanted to eliminate the free smoking zone designation near lifeguard tower Number Nine. As a

¹⁰⁰ In analogous cases, Lawrence Friedman highlights the clash between high law and low law in his contribution to this symposium. Lawrence M. Friedman, *High and Low Law*, 10 FIU L. REV. 53 (2014). In my account, however, socio-legal normative orders emerge within complex networks.

¹⁰¹ Decreto No. 35,179, de 2 de Março de 2012, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 05.03.2012 (Braz.).

consequence of the constant police operations and the imprisonment of hippie beachgoers, members of this tribe decided to establish a cooperative arrangement to prevent future imprisonment of marijuana smokers. A group of self-proclaimed anarchists distributed 1,500 plastic whistles and this social tribe took it upon themselves to make lots of noise to warn potential marijuana smokers of the presence of police officers in their area. This created sufficient time for smokers to throw away their marijuana cigarettes and to hide their marijuana in safe places. This example demonstrates the importance of networks within different social tribes, and how this particular tribe enacted an informal social norm of collective cooperation as a guarantee for the social norm that originally established the area as a free zone for marijuana consumption. In more recent years, a permanent military police tent has been established right next to the lifeguard tower Number Nine. As a consequence, the entire tribe decided to move a couple of hundred meters south and the community of hippies is now located at Nine and a half, instead of directly at point Number Nine, as before.

Recent initiatives for stricter law enforcement are related to consumer protection. Inspectors are demanding that all vendors display a list with products and their prices. In addition, public officials from the Municipal Department of Consumer Protection will join municipal guards in their inspections on the Beach. The mayor recently established this special consumer protection program through a decree.¹⁰² In addition, despite a few episodes of resistance to formal law enforcement, polls indicate that eighty percent of the population approves the movement of law and order on the beaches.¹⁰³ Therefore, the Secretariat for Public Order coordinates the annual program “Shock of Order” on the beaches during summer. Since 2009, Ipanema Beach has been a preferential target for this program and several inspections have taken place.

VII. A DEMOCRATIC BEACH?

This range of disciplinary measures invites the academic assessment of the widespread idea that Brazilian beaches are democratic spaces. In Foucauldian terms, power is exercised by public authorities not only to impose discipline, but also to regulate the behavior of the masses.¹⁰⁴ As a

¹⁰² Decreto No. 38,295, de 11 de Fevereiro de 2014, DIÁRIO OFICIAL DO RIO DE JANEIRO [D.O.E.R.J.] de 13.02.2014 (Braz.).

¹⁰³ Da Agência Brasil, *Choque de Ordem nas Praias de Rio Para o Verão 2013 é Antecipado*, AGÊNCIA BRASIL, (Nov. 4, 2011), <http://memoria.abc.com.br/agenciabrasil/noticia/2012-11-04/choque-de-ordem-nas-praias-do-rio-para-verao-2013-e-antecipado>.

¹⁰⁴ MICHEL FOUCAULT, *ABNORMAL* (2004); MICHEL FOUCAULT, *DISCIPLINE AND PUNISH* (1995); MICHEL FOUCAULT, *PSYCHIATRIC POWER* (2008); MICHEL FOUCAULT, *SECURITY, TERRITORY,*

disciplinary power, inspectors impose a pattern of normality and punish abnormal behavior through fines, suspensions, and other modes of punishment. Since 2009, there has been regular surveillance and discipline of beach vendors. In this sense, Ipanema Beach has become a venue where Foucauldian power micro-physics operates and a form of political optics is clearly in action.

Interestingly, Ipanema Beach provides a prodigious example of fragmented power being widely used by various non-state actors. Power is exercised by beach goers, beach vendors, lifeguards, municipal guards, police officers, and car watchers. In sum, everyone involved in this space imparts its power dynamics through way of their decisions and behavior, which shape the political landscape of Ipanema Beach. In this sense, deepening Foucauldian power micro-physics, we may conceive multiple power vectors in various directions of conduct and counter-conduct. The sum of these political vectors differs according to the area, tribe, and network we study. For instance, around lifeguard tower Number Eight multiple small acts of LGBT pride protect the public display of same-sex affection there. Likewise, around lifeguard tower Number Nine multiple small acts of cooperation between marijuana smokers protect its free consumption and resistance to imprisonment. On the other hand, microphysics of power around lifeguard tower Number Ten are mainstream and operate according to the status quo, so the sum of political vectors is very different here from competing areas. As a result, near tower Number Ten, moral or legal repression of a same-sex kiss or a drug arrest will not be resisted by the fragmented power of individual actors.

In addition to disciplinary power, there are many bio-power dynamics on Ipanema Beach.¹⁰⁵ Foucault referred to this type of power as “governmentality” and characterized it as demographical control of large groups of the population¹⁰⁶ Instead of punishing, bio-power focuses on the regulatory control of behavior.¹⁰⁷ In this sense, the stark distinction between the law on asphalt and the law of Pasargada traced by Sousa Santos makes a huge difference to the socio-legal experience of “haves” and “have-nots.” Unsurprisingly, anthropologist Julia O’Donnell identifies the social invention of the Copacabana Beach as a process of symbolic reconstruction of the sands, as a space destined for fashionable local elites.¹⁰⁸ As a consequence, the urban poor were regulated and controlled

POPULATION (2009) [hereinafter SECURITY, TERRITORY, POPULATION].

¹⁰⁵ See generally SECURITY, TERRITORY, POPULATION, *supra* note 104.

¹⁰⁶ See *id.*

¹⁰⁷ See *id.*

¹⁰⁸ JULIA O’DONNELL, A INVENÇÃO DE COPACABANA: CULTURAS URBANAS E ESTILOS DE VIDA NO RIO DE JANEIRO [THE INVENTION OF COPACABANA: URBAN CULTURES AND LIFESTYLES IN RIO DE

not only by public authorities, but also by members of the local elite who would reprimand their behavior, through shaming and blaming dynamics, to exclude them from their social networks.¹⁰⁹

A careful local observer knows that there is a stark contrast between the “haves” and the “have-nots” on the beaches in terms of their social contacts, their consumption patterns, and their perception of other groups of people. In this case, it seems that all three social tribes previously identified are somehow similar in the sense that “have-nots” are excluded from the middle and upper class networks. Likewise, members of the local elite imagine that they have an entitlement over their beach experience and that both the space and its symbolic significance should be shaped by their own fragmented power and informal social norms. In this sense, the elite’s discursive practices usually blame the urban poor for the ruin of their beach experience.

Along with this, there is the mystique of democratic beaches and an exotic association of these geographical areas with a form of government. However, it seems difficult to accept the idea that there is equal participation and symmetrical power for all beachgoers in Brazil. On the contrary, the elites are more powerful in terms of hegemonic cultural dominance.¹¹⁰ Therefore, Brazilian media reproduces the upper class discourse of deterioration of the Beach experience due to the growing, unregulated, undisciplined presence of the urban poor. These dynamics may be characterized as bio-politics,¹¹¹ because the different networks function as a social panopticon that surveys and regulates the urban poor on Ipanema Beach. These regulations are done through symbolic power dynamics, who are expected to change their conduct from abnormal to normal. As Foucault associated knowledge and power as fused social forces of behavioral control and restated Kelsen’s theory of law as a system of normality instead of a system of norms, this notion of bio-politics facilitates our comprehension of Ipanema Beach as a socio-legal space in which the elite uses its power to regulate the urban poor.¹¹²

However, it should be noted that ‘the masses’ could very well gain control over the space. After the inauguration of a subway stop in Ipanema in 2009, the yuppie social tribe did not accept the invasion of lifeguard tower Number Ten by masses of urban poor, and the entire social tribe migrated to lifeguard tower Number Twelve, in the nearby beach of Leblon (two kilometers south of the previous location). Therefore, Ipanema Beach

JANEIRO] (Zahar 2013).

¹⁰⁹ *See id.*

¹¹⁰ ANTONIO GRAMSCI, *PRISON NOTEBOOKS*, (Columbia University Press 2011).

¹¹¹ *See generally* SECURITY, TERRITORY, POPULATION, *supra* note 104.

¹¹² *Id.*

is falsely characterized as a special democratic place in which all individuals have equal participation and symmetrical power. This socio-legal space is in fact segmented into different tribes, networks, and classes; and its vertical hierarchies lead us to conclude that Ipanema Beach is not horizontally formed.¹¹³ As O'Donnell puts it, this notion of a democratic beach is just a myth.¹¹⁴

On the other hand, the upper echelons of society enjoy this rhetoric of a democratic beach. An interesting case study comes from the inauguration of a beach club inside the Fortress of Copacabana called *Aqueloo* and intended for the upper classes. As the investors rented the space from the military for \$150,000, invested \$1,500,000 in its internal infrastructure, and sold tickets for \$125.00 to men and \$30.00 to women.¹¹⁵ These high investments meant that *Aqueloo* would have to charge expensive tickets and select its clientele based on purchase power in stark contrast with social dynamics at Ipanema Beach. This Beach Club had a dance floor with electronic music, a bar, a restaurant, a beauty parlor, a spa, a store, and eighteen different VIP areas that could be rented out on a daily basis (the cheapest ones for \$2,000 and the most expensive one for \$10,000).¹¹⁶ In terms of commercialized products, clients consumed approximately one hundred bottles of the French champagne Veuve Clicquot a day at \$180 per bottle.¹¹⁷ There were a variety of other luxurious food and drink items on the menu, from oysters and seafood to Scotch whisky and Russian vodka.¹¹⁸ Even though this club was located on a beach, many of the 500 guests would spend most of their time on the dance floor and internal areas, as opposed to the sands and the sea. Many of the women would not even be dressed in the typical beachwear of a bikini and flip-flops, but rather in shorts, shirts, and high heels. In its two months of operation since inauguration on January 7, 2013, the entrepreneurs recovered their investment and one hundred employees benefitted from temporary jobs at this beach club, which was originally supposed to function until March 2, 2013.¹¹⁹

However, the magazine *Veja* produced a news report entitled "The Beach of the Rich" on February 27, 2013 that described *Aqueloo* as an

¹¹³ LAWRENCE FRIEDMAN, *THE HORIZONTAL SOCIETY* (Yale University Press 1999).

¹¹⁴ *See generally* JULIA O'DONNELL, *supra* note 108.

¹¹⁵ Ernesto Neves, *A Praia dos Riquinhos*, VEJARIO, (May 9, 2014), <http://vejario.abril.com.br/materia/servicos/aqueloo-beach-club-forte-de-copacabana/>.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *See id.*

¹¹⁹ *Id.*

exclusive place for the wealthiest in Rio.¹²⁰ Among the interviewees, the manager stated that clients could bring their Rolex watches and their Louis Vuitton purses without fear of theft, as there were twenty-five security guards on duty at all times.¹²¹ Sociologist Camila Diniz declared that she abandoned Ipanema Beach for the club because of the selected clientele and the fact that she could drink champagne and have a hairbrush with professionals better than those one would find in France.¹²² Dominic Ahnee, a tourist from Hawaii, praised the beauty of women there, while Michelle Shane echoed this idea, saying that there were only beautiful people there and that men knew how to approach women.¹²³ Finally, the main investor declared that the area was originally used only by the military for private functions with their families and that the area was then opened up to their clients.¹²⁴ The entrepreneurs had been so successful that they were planning to establish a membership card for frequent guests. This report sparked controversy on the Internet. An invasion was quickly organized via Facebook for the following Sunday, March 2, (scheduled to take place just three days after the news report was published) and 1,250 people confirmed their attendance to this event within twenty-four hours.¹²⁵ They were planning to gather together at 10:00 in the morning and invade the military area on *Aqueloo's* last day.¹²⁶ As a consequence of this threat, the military decided that the club would not function on Sunday, so Saturday, March 1, would be *Aqueloo's* final day in 2013.¹²⁷

Protesters celebrated their victory by claiming that they had restored beach democracy in Rio de Janeiro.¹²⁸ *Aqueloo* defenders argued that the Beach Club was open to everyone who could afford to buy tickets, but now no one would be able to reach the fortress' beach anymore.¹²⁹ In addition, the Beach Club provided jobs and a new tourist attraction for the city.¹³⁰ They attributed the controversy to envy and lamented the premature closing

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *See id.*

¹²⁴ *Id.*

¹²⁵ Laura Antunes, *Grupo Planeja Invadir Clube VIP no Forte de Copacabana*, OGLOBO, (Feb. 27, 2013), <http://oglobo.globo.com/rio/grupo-planeja-invadir-clube-vip-no-forte-de-copacabana-7684899>.

¹²⁶ *Id.*

¹²⁷ Fernando Frazão, *Exército Acaba Com Festa na 'Praia Dos Riquinhos'*, VEJA.COM, (Mar. 1, 2013) <http://veja.abril.com.br/noticia/brasil/exercito-acaba-com-festa-na-praia-dos-riquinhos>.

¹²⁸ For an source for the discourse analysis, see the *Aqueloo Beach Club's* Page on Facebook, available at <https://www.facebook.com/AquelooBeachClub/photos/a.397966203620954.94078.373127229438185/428824967201744/?type=1> (last visited Oct. 18, 2014).

¹²⁹ *Id.*

¹³⁰ *Id.*

of *Aqueloo*.¹³¹ Residents from neighboring buildings celebrated the decision, as they had complained against the loud electronic music that ran between 10:00 a.m. and 10:00 p.m.¹³² They had filed petitions to the Attorney General's Office to investigate the legality of this Beach Club inside the fortress of Copacabana.¹³³ This interesting case study highlights the false consciousness that beaches are democratic spaces in Brazil. In truth, Brazilians share the same geographical space and there is no apartheid on Ipanema Beach, but tribes, networks, and classes establish their own mechanisms for inclusion and exclusion, and the logic of informal group membership reigns. Likewise, everyone has free access to the beaches, but the space is privately exploited and occupied by all sorts of different socio-economic actors. Furthermore, bio-politics and disciplinary power establish imaginary hierarchies on Ipanema Beach, which results in a lack of equal participation or symmetrical power for beachgoers to shape its socio-legal space. The 'democratic beach' is clearly a myth. In reality, Ipanema Beach is segmented by tribes, networks, and classes, which produce informal social norms that shape the socio-legal space and reproduce societal distinctions on its sands.

VIII. FINAL REMARKS

This article explored the interplay of formal and informal normative arrangements and provided an ethnographical analysis of socio-legal norms at Ipanema Beach. For Brazilian society, beaches are so important that even constitutional norms regulate their operation and guarantee free access for everyone. This article discussed the existence of an informal food market at Ipanema Beach and analyzed its regulation, informal arrangements of antitrust (anticompetitive market prices), as well as issues of environmental and consumer protection. In addition, this study assessed informal land regimes and discussed which norms are available to regulate the occupation of the space by beachgoers, including exploitation for private gain. In this context, tent managers and informal parking space finders provide informal arrangements that guarantee parking, tents, and chairs for beachgoers. The state is also present at Ipanema Beach by way of municipal guards, police officers, and lifeguards, who are expected to

¹³¹ *Id.*

¹³² During the symposium Sally Falk Moore asked me about complaints due to loud music on Ipanema Beach. There are not many conflicts among beachgoers there, because loud music is not socially accepted. On rare occasions, one beachgoer may walk with a soundplayer on his shoulder and this nuisance is tolerated exactly because it is temporary

¹³³ Cristina Indio do Brasil, *MP Militar Pedre Detalhes de Contrato de Clube no Forte de Copacabana*, G1- RIO DE JANEIRO, (Feb. 27, 2013), <http://g1.globo.com/rio-de-janeiro/noticia/2013/02/mp-militar-pedre-detalhes-de-contrato-de-clube-no-forte-de-copacabana.html>.

enforce law and order. This study showed that regulation of space on Ipanema Beach is decentered, fragmented, and operates beyond the boundaries of traditional public-private divide.

Furthermore, examples of resistance to legal regulations and to criminal law enforcement were analyzed. For instance, marijuana smokers tend to frequent a particular area of the Beach, and make noise to alert others of police officers in an effort to prevent arrests. Further, *frescobol* players are not fined for playing the game at certain times, but at non-designated times their sanctions consist of warnings, threats of being reported to authorities, and eventually the confiscation of the ball. Dogs are generally prohibited, though they are tolerated in an isolated corner of the Beach. In summary, a range of (in)formal normative arrangements characterize law and society at Ipanema Beach. Finally, Brazilians usually refer to beaches as “democratic spaces” and this paper investigated the exotic association between a geographical area and governmental structure, concluding that equal participation and symmetrical power for all beachgoers in Brazil is not realistic. This notion of a democratic beach is just a myth, as Ipanema Beach is segmented by tribes, networks, and classes, which produce informal social norms that shape the socio-legal space and reproduce societal distinctions on its sands.

In terms of contribution to the socio-legal literature, this article demonstrates the relevance of multiple networks for formation and implementation of socio-legal normative orders beyond close ethnic groups and close-knit communities.¹³⁴ In this complex scenario, this study shows that multiple private and public actors are norm-makers, because their individual and collective moves generate reactions of acceptance, resistance, and accommodation within this socio-legal space. For instance, acceptance of dogs and *frescobol* on Devil’s Beach established this area as a safe haven for pet owners and racket players. In addition, resistance against homophobia, war on drugs, and abusive pricing generated informal practices of same-sex protection, marijuana decriminalization and antitrust. Moreover, conflicts are accommodated under the shadow of umbrellas and the ultimate solution is often different from the law in the books. Adopted in the absence or against the state, these normative practices emerge within complex networks, because not only the Union, the State, and the City of Rio de Janeiro, but also tribes, clubs, and classes establish normative order at Ipanema Beach.

¹³⁴ I owe this insight to a conversation I had with Denis Galligan.